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Year-End Tax Planning for Businesses

PUBLISHED – NOVEMBER 28, 2023

Learning Objectives

KNOWLEDGE

OBJECTIVE # 1: Discuss the economic and market factors that affect tax planning decisions.

OBJECTIVE # 2: Assess your organization's financial position and identify tax efficiency opportunities.

OBJECTIVE # 3: Identify ways to maximize deductions, tax credits and incentives for your business.

OBJECTIVE # 4: Prepare for year-end tax planning to supercharge your business's financial success.

CPE INFORMATION

Program Level: BASIC

Recommended CPE: 1

Field of Study: TAXES

Program Prerequisite: NONE

Advanced Preparation: NONE

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Objectives

- Discuss the economic, market, and governmental factors that affect tax planning decisions.
- Assess your organization's financial position and identify tax efficiency opportunities.
- Identify ways to maximize deductions, tax credits and incentives for your business.
- Prepare for year-end tax planning to supercharge your business's financial success.

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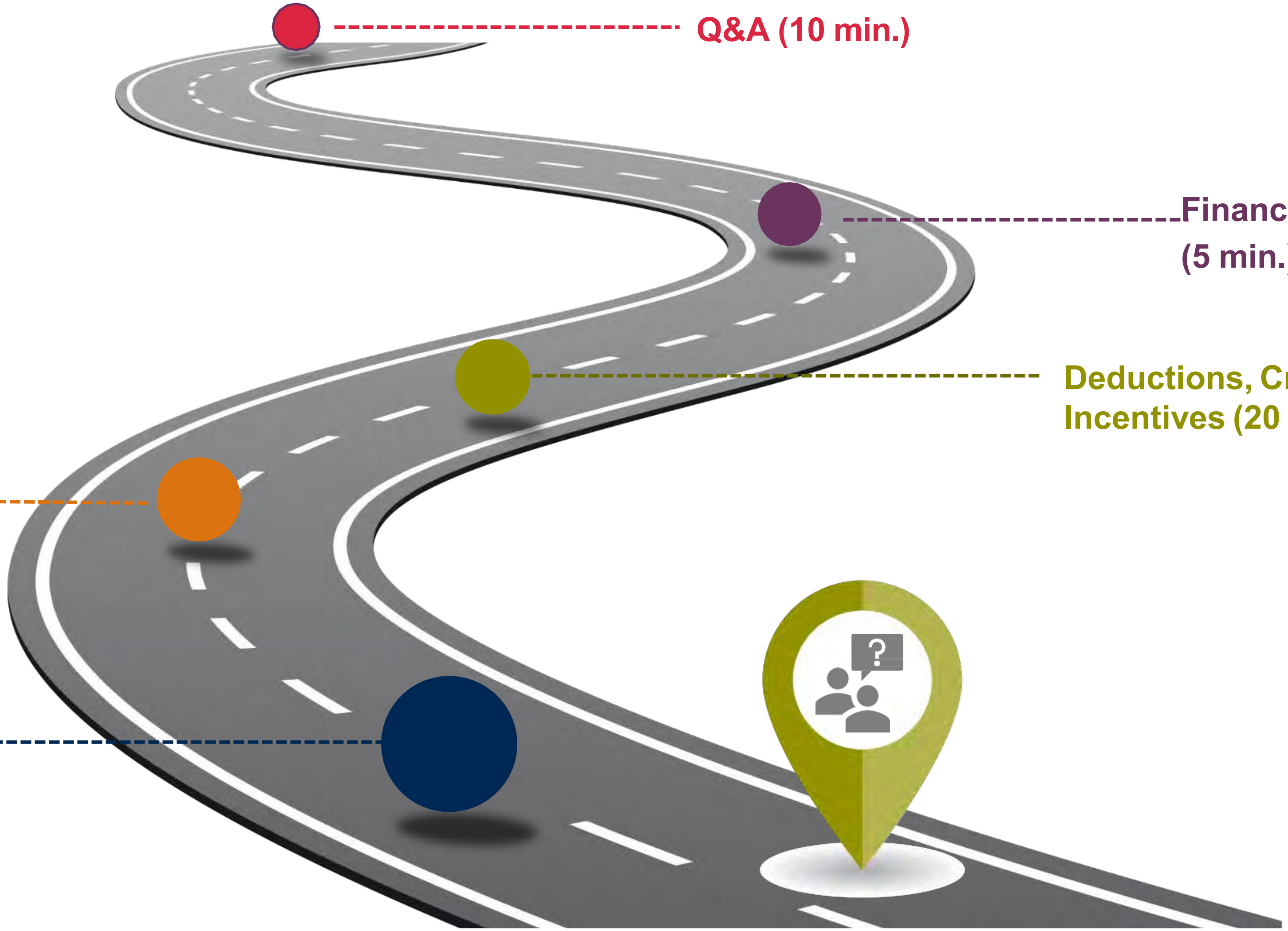
Agenda



THE IMPORTANCE OF

Year-End Planning

START NOW

Preparing for Year-End Tax Planning

1. **Review your current financial situation:** Understand your income, expenses, and potential deductions.
2. **Estimate your tax liability:** Use your current financial data to estimate your tax for the year.
3. **Identify potential tax-saving opportunities:** Look for deductions, credits, and incentives that you may be eligible for.
4. **Make tax-efficient investment decisions:** Consider the tax implications of your investment decisions to minimize your tax liability.
5. **Plan for payments:** Ensure you have sufficient funds set aside for your tax payments.
6. **Consult with a tax professional:** Seek professional advice to ensure your tax planning strategy aligns with the latest tax laws.

IMPACT ON TAX PLANNING

Economic, Market, & Governmental Factors

Federal & State Audit Forecast

IRS Strategic Plan

State Audit Trends

FinCen Benefical Owner Reporting For Businesses

Secure Act 2.0

IMPACT ON TAX PLANNING

Federal & State Audit Forecast

- New IRS Strategic Plan Goals
  - Dramatically improve services to taxpayers and quickly resolve taxpayer issues when they arise
  - Deliver cutting-edge technology, data, and analytics to operate more effectively
  - Attract, retain, and empower highly skilled workforce
  - Expanded enforcement on taxpayers with complex tax filings (i.e. more audits)
    - Partnership audits already up with 575 more audit notices going out to large partnership as of October 2023 (IR-2023-166)
    - Audits of those making over $400K to increase dramatically from 2023 – 2026
    - Increased audits of specialized areas (basis, reasonable comp, distributions vs payroll, self employment earnings, etc)
    - Corp audit rates 10.5% in 2011, and 1.7% in 2019 –targeting ramping back up the 2011 audit rate
    - Will use ai, data, and other analytics to make smarter audit selections
- State Audit Trends
  - States continue to audit nexus to expand their tax base
  - Apportionment audits continue amidst lack of on-point guidance
  - States are looking to negate many credits and incentives on technicalities
  - Sales & use tax audits are expanding & states are getting smarter

STATE AND LOCAL TAX

Passthroughs and PTET

Passthroughs Generally

- Consider impact of large capital events in different states (sourcing rules vary by state)
- California sourcing cases/guidance updates
- California tax basis (temporary reprieve)

Passthrough Entity Tax

- PTETs will continue to be in effect until at least 2025
- Other state tax credits and other considerations still loom large
- Consider reviewing PTET requirements early (e.g., CA estimated payment required by June 15)
- Review PTET potential if major capital events are imminent
- Effects of failed PTET elections

IMPACT ON TAX PLANNING

FinCen Beneficial Owner Reporting

Effective 1.1.24 All Companies Must Report Beneficial Owners to FinCen Unless Exempt

Noncompliance Penalties:	Civil penalty for noncompliance of up to $500 per day and potential criminal penalties of up to 2 years of imprisonment and a fine up to $10,000
Entities Exempt From Reporting:	Certain types of securities issuers, government authorities, certain banks/credit unions/ bank holding companies, certain money transmitting or money services businesses, broker dealers, securities exchanges & clearing agencies, certain other entities registered with the SEC, certain investment agencies/companies, certain venture capital fund advisors, insurance companies & producers, commodity exchange act registered entities, certain public accounting firms, financial market utilities, certain pooled investment funds, certain tax exempt entities, certain inactive entities, AND Certain Large Operating Companies that meet all of the following requirements: • *Must employ 20 full time employees in the US* • *Must have operating presence & physical location in the US employ* • *Prior year Federal income tax return must show $5M in US gross receipts (net of returns & allowances)*

IMPACT ON TAX PLANNING

FinCen Beneficial Owner Reporting

Reporting Due Dates:	New Entities Created or Registered in 2024 • *Report due 30 days after creation or registration* • *Current proposal to extend to 90 days after creation or registration* Existing Entities Created or Registered Prior to 2024 • *Initial report due January 1, 2025* Generally any change in data reported on the return or change in exemption triggers an updated filing
Who is Reported (in general):	**Beneficial Owners:** any individual who, directly or indirectly, either exercises substantial control over a reporting entity OR owns or controls at least 25% of the ownership interest of a reporting company. • *Substantial Control: serves as a senior officer of a reporting company, authority over the appointment or removal of any senior officer or dominant majority of the board of directors, or has substantial influence over important matters of the reporting company.* • *25% Ownership Interest: includes both equity and other types of interests, such as capital or profits interests, or convertible interest, warrants or rights, or other options or privileges to acquire equity or capital.* **Applicants**: the individual who directly files the document that created the entity or registered it to do business in the united states OR the individual who is primarily responsible for directing or controlling the filing of the relevant documents by another. (Applicant's are only reported by new entities created in 2024)

IMPACT ON TAX PLANNING

Secure Act 2.0

Summary	SECURE 2.0 is comprehensive legislation intended to expand and increase retirement savings, especially for low-income and part-time employees, and to simplify and clarify many complex and confusing existing retirement plan rules. It builds on the SECURE Act of 2019 (SECURE Act), which increased the age of required minimum distributions (RMDs) and eliminated age requirements for traditional IRA contributions.
Mandatory Automatic Enrollment	Effective for plan years beginning after December 31, 2024, new 401(k) and 403(b) plans must automatically enroll employees when eligible. Automatic deferrals start at between 3% and 10% of compensation, increasing by 1% each year, to a maximum of at least 10%, but no more than 15% of compensation.
Increased Age and Decreased Penalties For Required Minimum Distributions (RMDs)	SECURE 2.0 increases the age for required minimum distributions (RMDs) to 73, beginning on January 1, 2023, and to age 75 on January 1, 2033, for certain individuals. In addition, the penalty for not taking the RMD decreases from 50% to 25% of the RMD amount, and 10% for IRAs if corrected timely. In addition, Roth accounts in employer retirement plans will no longer have required RMDs.
Increase In Catch-Up Limits	Provides an increase in the contribution amount for those aged 60, 61, 62, or 63, effective for tax years after 2024. For most plans, this catch-up limitation is $10,000, and $5,000 for SIMPLE plans (indexed for inflation)
	The annual limit on contributions to IRAs is also increased for participants aged 50 and older. The “catch-up” limit for IRAs is $1,000
	For tax years beginning after 2023, all catch-up contributions for those earning over $145K are subject to Roth (i.e., after-tax) rules, rather than only where allowed by the plan in which the individual participates (DELAYED UNTIL 2026)

IMPACT ON TAX PLANNING

Secure Act 2.0

Penalty-Free Emergency Withdrawals Allowed Under Certain Circumstances	Penalty-free distributions are allowed for “unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses” up to $1,000.
	Only one distribution may be made every three years or one per year if the distribution is repaid within three years.
	Penalty-free withdrawals are also allowed up to $10K for individuals who need the funds in cases of domestic abuse, and up to $22,000 related to Federally declared natural disasters.
Student Loan Repayments	Starting in 2024, employers can offer matching contributions to a SIMPLE-IRA plan (as well as 401(k), 403(b), and 457(b) plans), based on the amount of a qualified student loan repayment made by a participant to a lender during the applicable period.
	The loan repayment amount is treated as if the participant deferred the amount under the plan, even though no deferral amount is actually withheld from the participant’s eligible compensation or contributed to the plan by the participant.
	An employee’s self-certification is acceptable as a minimum requirement, but employers should consider obtaining actual documentation of such payments actually made by the employee.
Automatic Rollover Rules Change	Currently, plans may automatically distribute small accounts of less than $5,000 to former participants. If the distribution is greater than $1,000, the plan must roll the account into an IRA.
	Effective 12 months from enactment, SECURE 2.0 permits the transfer of default IRAs into the participant’s new employer’s plan, unless the participant affirmatively elects otherwise.
	Also increases the limit for automatic rollovers from $5,000 to $7,000.

MAXIMIZING

Deductions, Tax Credits, and Incentives

01	02	03	04	05
Section 174 Research & Development Expenditures	Section 163(j) Interest Expense Limitations	Bonus Depreciation Changes	Green Credits & Deductions For Businesses	Employee Retention Credit Update

DEDUCTIONS, TAX CREDITS, AND INCENTIVES

Section 163(j) & Bonus Depreciation

- Section 163(j) Interest Expense Limitations
  - Reminder – as of 1.1.22 computation of adjusted taxable income does not add back depreciation or amortization
  - Leverage the benefits of interest capitalization
    - Section 266 Election To Capitalize Otherwise Deductible Interest to Property
    - Consider 263(a) election to capitalize interest expense to inventory and deduct as inventory turns.
    - Consider interest as part of construction
  - Consider separately stating business interest income from sales contracts consistent with ASC Topic 606 (tax accounting method change).
  - Manage bonus depreciation to raise taxable income lowering 163(j) limit.

- Bonus Depreciation Changes – bonus depreciation is phasing out over next 5 years.
  - 2023 – 80%
  - 2024 – 60%
  - 2025 – 40%
  - 2026 – 20%
  - 2027 & After – 0%

DEDUCTIONS, TAX CREDITS, AND INCENTIVES

Section 174 Research & Development Expenditures

- §Notice 2023-63 Guidance on application of section 174 was issued on Friday, September 8
- No real impact on 2022 tax returns already filed
- Further guidance expected (proposed guidelines)
- Highlights from September guidance
- We now know how to treat short years in amortization schedule (full year)
- We know how to remove certain expenditures as not R&E
- We know what costs are considered indirect costs and what methodologies can be used to allocate (headcount, payroll, & square footage)
- Software Development has been defined (maintenance, bug fixes, implementation are not 174 expenses)
- Research performed under contract which a provider has rights or risks should be considered section 174 (internationally too) expenses
- Disposition of certain property may need to be included as a 174 expense

R&D vs Section 174

R&D

- **Define the Business Components**
  - Product, Process, Software, Invention, Formula and Technique
- **Identify Qualified Activity (US Only)**
  - Time, Materials, Cloud Rental Space, 3rd party Contractors
- **Activity Discussions**
  - Quantify Calculation
  - Supporting Documentation
  - Gather supporting documentation for project development, involvement, invoices, contracts etc.

Section 174

- **Identify qualified research and experimentational activity**
  - Internal Software, Software, Product, Process, Invention, Formula, Technique
- **Identify Qualified Activity**
  - International? CFC? Rights, Risk, Transfer Pricing
- **Expenses identified**
  - Quantify Calculation with R&D QREs, TBs, Income Statement, Indirect Costs, and Book to Tax adjustments
- **Amortization Schedule**
  - 5 year domestic & 15 years International

R&D Credit - Payroll Tax Credit Update

For tax years beginning after December 31, 2022, you can now use R&D tax credit for up to $500,000 in payroll tax offset (up from $250,000).

Rules

- Must still meet Section 41 tax code guidelines
- Pass the four-part test
- Qualifying expenses - Wages, Supplies, Contract Research, Clous Leasing Costs
- Qualified Small Business
- Gross receipts of the entity for the tax year must be less than $5 million
- The entity did not have gross receipts for any tax year preceding the five- tax-year period ending with the current tax year
- The election cannot be made if there was a payroll tax election in five or more prior tax years
- You must select the payroll tax on the tax return section D on Form 6765
- Taxpayer can begin using credits in the quarter after the one filed, and any overpayment can be applied to future quarters

DEDUCTIONS, TAX CREDITS, AND INCENTIVES

Green Credits & Deductions For Businesses

Green Commercial Vehicle Credits

- Up to $40,000 in non-refundable tax credits for each commercial zero-emission vehicle with 14,000 lb gross vehicle wight rating and above; minimum 15 kilowatt-hour battery size
- Heavy-duty charging infrastructure tax credit up to $100,000 per property (up from $30K per property)

Federal Solar Tax Credits For Businesses

Generally taxpayers can claim either the Investment Tax Credit (Section 48) or Production Tax Credit (Section 45)

- **Investment Tax Credit (ITC)**: tax credit that reduces the federal income tax liability for a percentage of the cost of a solar system that is installed during the tax year.
  - The ITC is an upfront tax credit that does not vary by system performance
- **Production Tax Credit (PTC)**: a per kilowatt-hour (kWh) tax credit for electricity generated by solar and other qualifying technologies for the first 10 years of a system's operation.
  - PTC can provide a more attractive cash flow, as the tax credits are earned over time
- Solar systems that are placed in service in 2022 or later and begin construction before 2033 are eligible for a 30% ITC or a 2.75 ¢/kWh PTC if they meet labor requirements issued by the Treasury Department or are under 1 megawatt (MW) in size
- Carryback unused credits 3 years and forward 22 years.

Green Credits & Deductions For Businesses

Tax Credit Transfers

- The Inflation Reduction Act provides statutory authority for taxpayers to freely transfer by sale specified federal income tax credits generated by investments in specified renewable energy projects

Who Can Sell Tax Credits	Who Can Buy Tax Credits:	Which Green Energy Projects are Eligible for Credits
• Generally for-profit corporations, including S corporations, partnerships, individuals, trusts, and similar taxpayers. An exception to this rule applies to Sections 45V (clean hydrogen production tax credit), 45Q (carbon oxide sequestration tax credit), and 45X (advanced manufacturing production tax credit), which may prevent certain for-profit entities from selling credits.	• A buyer of credits is any entity with federal income tax liabilities for which credits can be used and which is not related to the seller. Buying taxpayers can be partnerships, corporations, including S corporations, individuals, trusts, and similar taxpayers.	• Alternative fuel vehicle refueling property (30C), Renewable electricity production credit (45), Carbon oxide sequestration credit(45Q), Zero-emission nuclear power production credit (45U), Clean hydrogen production credit (45V), Advanced manufacturing production credit (45X), Clean electricity production credit (45Y), Clean fuel production credit (45Z), Energy credit (e.g., solar, wind, geothermal, etc.) (48), Qualifying advanced energy project credit (48C), and Clean electricity investment credit (48E).

- Sellers must register with the IRS before selling credits & a transfer election must be made on a timely filed tax return
- Credit can only be sold one time
- Buyers can use credits against estimated tax, or carry back 3 years, or forward 22 years. However, credits can't be sold if in carryback or carryforward status.
- Credits will sell at a market discount (for example, $1 of credit may sell for 94 cents).

DEDUCTIONS, TAX CREDITS, AND INCENTIVES

Green Credits & Deductions For Businesses

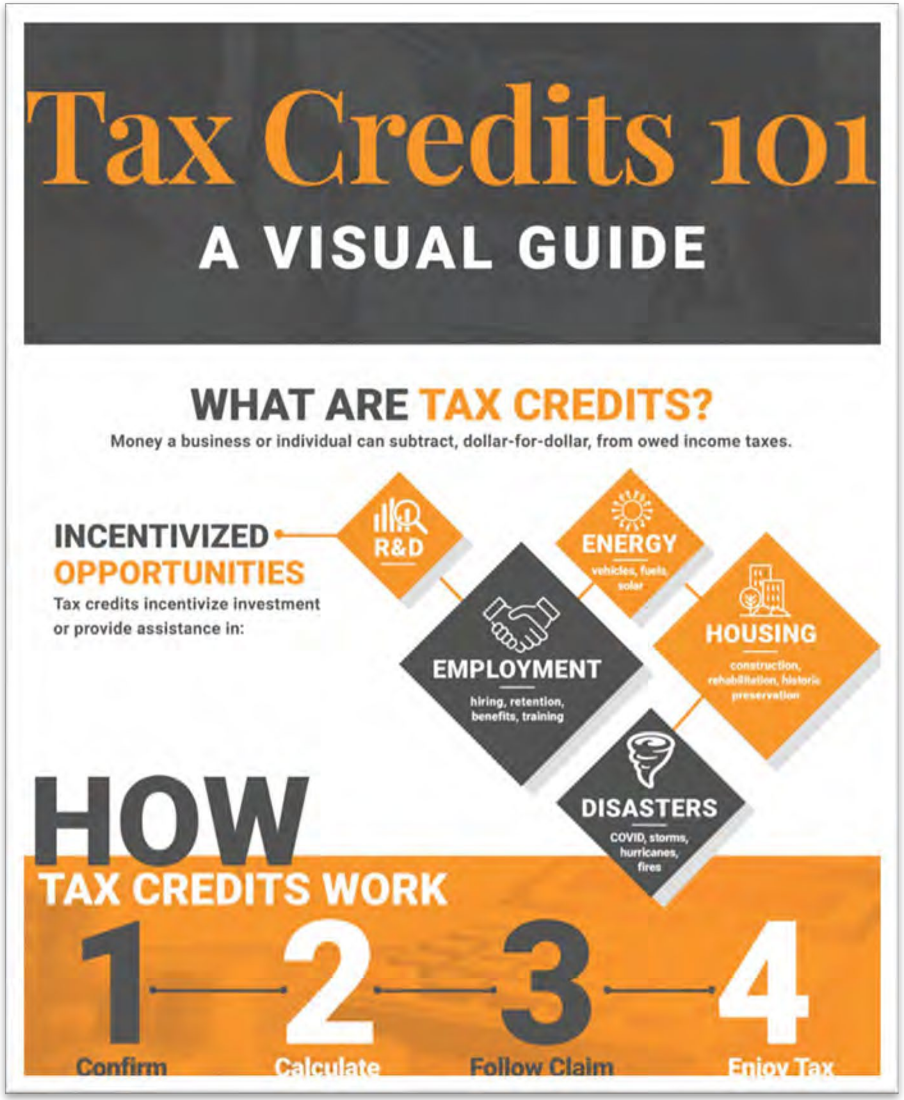
Energy Efficient Commercial Building Deduction (179D)

Special tax deduction for building owners who construct energy efficient buildings or increase the energy efficiency of existing buildings by at least 25% (50% before 2023). An increased deduction may be available for making higher efficiency improvements and meeting prevailing wage and apprenticeship requirements.

- **Who is Eligible (After 1/1/123)?:**
  - Owners of qualified commercial buildings
  - Designers of energy efficient commercial building property installed in buildings owned by government entities
  - Indian tribal governments & Alaska Native Corporations and tax-exempt organizations
- **Which Buildings Qualify?**

  Commercial buildings (including apartment buildings over 3 stories) Located in the U.S., Subject to the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 90.1, built with qualified property, and certified to produce required minimum energy savings
- **What is Qualified Property?**

  Depreciable property installed as part of interior lighting systems, heating, cooling, ventilation and hot water systems, or the building envelope.
- **How Much Is the Deduction(2023 and After)?**
  - Lesser of the cost of the installed property; OR
  - The savings per square foot calculated as $0.50 per square foot for a building with 25% energy savings, Plus $0.02 per square foot for each percentage point of energy savings above 25%, up to a maximum of $1.00 per square foot for a building with 50% energy savings
- Expenses deducted in the prior 3 years (4 years for an allocated deduction) reduce the maximum deduction before computing the current year deduction.


Tax Credits 101
A VISUAL GUIDE
WHAT ARE TAX CREDITS?
Money a business or individual can subtract, dollar-for-dollar, from owed income taxes.
INCENTIVIZED OPPORTUNITIES
Tax credits incentivize investment or provide assistance in:
R&D
ENERGY
EMPLOYMENT
hiring, retention, benefits, training
HOUSING
DISASTERS
COVID, storms, hurricanes, fires
HOW TAX CREDITS WORK
1
2
3
4
Confirm
Calculate
Follow Claim
Enjoy Tax

CORPORATE TAXES

Public Company Items

- Stock Buyback
  - 1% Excise Tax on FMV of stock repurchases
    - Several repurchases not subject to excise tax
    - $1M buyback threshold
- Minimum book tax
  - 15% Corporate Alternative Minimum Tax (CAMT)
    - Average AFS income exceeding $1 billion over 3 year period

WHAT'S GOING ON?

Assessing Your Organization's Financial Position

Importance of understanding your financial position

Identifying tax efficiency opportunities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YEAR
END
GUIDE
2023 YEAR-END TAX PLANNING GUIDE
For Privately Held Businesses
An Armanino White Paper

Thank you for attending

Additional Questions?

Reach out to us at

Experts@armaninio.com

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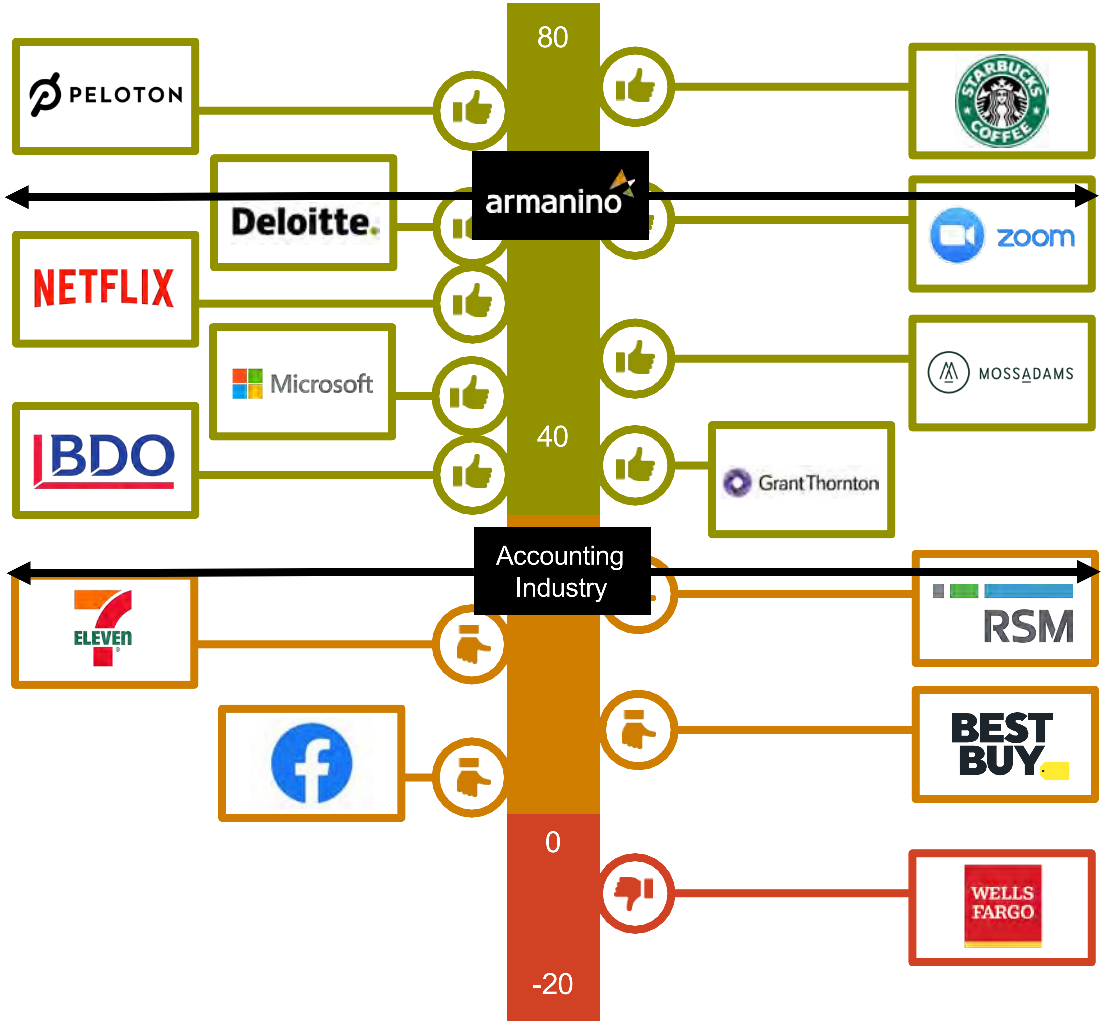
We're Just What You Need

A Net Promoter® Score (NPS) is used by more than two-thirds of Fortune 1000 companies. **Armanino's NPS (68) is almost two times higher** than the accounting industry average (38), and it places the firm scores closest to household name brands such as Starbucks, Peloton and Zoom.



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Reimagine Your Potential

Unconventional Approach

We're a vested, entrepreneurial partner who sees your organization through a 360 lens and finds opportunity at every stage

Comfort in Change

Our experts provide guidance and support while quickly facilitating transformation that gives you a competitive advantage.

Focused on You

Our integrated teams and solutions deliver tailored insights to bring you more value and clarity throughout your journey.

A new and better way for today and tomorrow

Equipping you with the insights and tools needed to redefine what's possible

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- Trust & Estate
- SOX
- Contract

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- SOC
- Restructuring
- Revenue Recognition

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- Benchmarking
- Business Transformation

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- Interim Placement

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- ERP
- CRM
- Business Intelligence
- Managed Services

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- Bookkeeping
- Budgeting/Forecasting
- Account Receivable
- Accounts Payable


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